

### **REMARKS**

Reconsideration and withdrawal of the objections to the specification and claims and rejection of claim 87, in view of the remarks and amendments herein, is respectfully requested. Claims 1, 35, 36, and 87 are amended, claims 77-84 are canceled, and claim 92 is added. The amendments are intended to advance the application and are not intended to concede to the correctness of the Examiner's position or to prejudice the prosecution of the claims prior to amendment, which claims are present in a continuation of the present application. Claims 1-76 and 85-92 are pending.

This Amendment and the above-referenced SEQUENCE LISTING are being filed in part to conform the above-referenced application to the requirements of 37 C.F.R. §§ 1.821-1.825. In accordance with 37 C.F.R. § 1.821(e), a copy of the above-submitted SEQUENCE LISTING in ASCII computer readable form is submitted herewith. It is respectfully submitted that the contents of the paper version of the SEQUENCE LISTING and the computer readable form are the same. It is further submitted that the paper copy of the SEQUENCE LISTING and the computer readable form of the SEQUENCE LISTING do not represent new matter.

Claims 13, 14 and 91 were objected to under 37 C.F.R. § 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The Examiner is requested to consider that the specification discloses that a sample may be contacted with a first reaction mixture then a second reaction mixture, with a second reaction mixture then a first reaction mixture, or with both reaction mixtures, where one of the reactions is a bioluminogenic reaction and the other is a fluorogenic reaction (page 6, lines 16-19, page 15, line 29-page 16, line 16, page 16, line 29-page 17, line 7, and page 17, lines 23-26). It is also disclosed that the resulting signals can be detected sequentially or simultaneously (page 12, lines 6-21 and the Examples). Therefore, it is Applicant's position that claims 13, 14 and 91 further limit the subject matter of claim 1. However, to clarify Applicant's invention, claim 1 is amended. Withdrawal of the objection to the claims under 37 C.F.R. § 1.75(c) is respectfully requested.

Claim 87 was objected to because the terms BODIPY and TEXAS RED were not followed by their chemical names. The amendments to claim 87 obviate this objection.

Claim 87 was also rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

The Examiner asserts that the fluorophores recited in claim 87 are not found or originally described. In this regard, the Examiner is requested to consider that claim 70, which was filed with the application, recites the same fluorophores as claim 87. The claims are part of the application as filed. Therefore, the subject matter of claim 87 is fully supported.

Accordingly, withdrawal of the § 112(1) rejection is respectfully requested.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6959 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date

April 2, 2007

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 2<sup>nd</sup> day of April, 2007.

PATRICIA A. HULTMAN

Name

Signature